

Meeting Minutes November 4, 2004

Town of Los Altos Hills City Council Regular Meeting

Thursday, November 4, 2004 6:00 P.M.
Bullis School Multi-Purpose Room, 25890 Fremont Road

1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor O'Malley called the Regular Meeting of the City Council to order at 6:00 p.m. in the Bullis School Multi-Purpose Room at Town Hall Temporary Offices.

Present: Mayor Mike O'Malley, Mayor Pro Tem Breene Kerr, Councilmember Bob Fenwick and Councilmember Dean Warshawsky
Absent: Councilmember Emily Cheng
Staff: City Manager Maureen Cassingham, City Attorney Steve Mattas, Planning Director Carl Cahill, Acting City Engineer/Director of Public Works Dave Ross, Administrative Services Director Sarah Joiner and City Clerk Karen Jost

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Kerr and passed unanimously to limit the length of time for public comments to three minutes.

2. APPOINTMENTS AND PRESENTATIONS

2.1 Presentation of the Adobe Creek Upper Reach 5 Restoration Project and Collaborative Principles-Santa Clara Valley Water District

Beau Goldie, Santa Clara County Valley Water District, extended his apologies to the Council from Director Tony Estremera who was unable to attend the meeting. Goldie presented a power point presentation of the Adobe Creek Reach 5 Restoration Project that included a background summary of the project; information on the formation of the Collaborative Group; identification of the Collaborative Principles and their key elements and key objectives; and clarification of the Town's expected commitment to the Project.

Goldie thanked the Collaborative Group members and City Manager Cassingham for their efforts that had been an integral factor in the success of bringing this project to this phase. He explained that the Water District, at this meeting, was seeking Council approval of the Principles document that was before them. This would demonstrate the Town's commitment to the Collaborative process.

Council thanked Mr. Goldie and expressed their appreciation to the members of the Collaborative Group for their resolve to bring a successful resolution to the Adobe Creek restoration.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Fenwick and passed unanimously to adopt and approve Resolution 72-04 accepting the Adobe Creek Upper Reach 5 Restoration Project Collaborative Principles.

2.2 Certificates of Appreciation – Rick Ellinger, Joint Volunteer Awards Committee; Fred Fallah, Pathways Committee

Mayor O'Malley announced that the City Council was awarding Certificates of Appreciation to Standing Committee member Fred Fallah, Pathways Committee, and Rick Ellinger, Joint Volunteer Awards Committee member. Council congratulated the recipients and thanked them for their service to the community.

3. PLANNING COMMISSION REPORT

Planning Director Carl Cahill reported that the Planning Commission had not met since the last City Council meeting. Cahill updated the Council on the Campbell-Ligeti house deconstruction. He explained that the process had begun and erosion control measures had been installed. Because they are attempting to salvage some of the material, the process to dismantle the structure was expected to take several weeks. Cahill added that he had attended the Santa Clara County Public Hearing on the Draft EIR for the S1 trail. He reported that, at this time, it appeared that County staff was recommending the S1-C trail. Cahill noted that this option would have the least impact on the Town. Cahill informed Council of an additional item that related to pathways that involved an effort by the Mid Peninsula Open Space District to obtain easements and open a trail through Foothills Park that would be open to the public. The Park is currently only open to Palo Alto residents. He would be attending a meeting later this month with the District and would forward any update to Council.

4. CONSENT CALENDAR

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Fenwick and passed unanimously to approve the Consent Calendar, specifically:

- 4.1 Approval of Minutes: Regular City Council Meeting October 21, 2004
- 4.2 Review of Disbursements: 10/15/2004 – 10/29/2004 \$771,421.58
- 4.3 Approval of an Agreement with Collection Systems Maintenance Service for Sewer Line Preventive and Emergency Maintenance-Resolution No. 73-04
- 4.4 Approval of Public Facilities Fee Program Annual Report
Fiscal Year Ended June 30, 2004
- 4.5 Certificate of Correction, Tract No. 1286 – Lands of Yu; 14329 Miranda Way

- 4.6 Notification of Fast Track Approval: Request for a Site Development Permit for a 895 square foot first and second story addition (maximum height 27'); Lands of Tan and Lee, 12129 Oak Park Court (165-04-ZP-SD-GD)

5. UNFINISHED BUSINESS

5.1 Town Goals

5.1.1 Complete Town Hall On Time and On Budget

5.1.1a TBI Update

Tony Vierra, TBI Construction Management, provided a project summary update to Council. The steel has been installed and wood framing had begun. There has been approximately a week lost in the construction timeline due to inclement weather but the project was still on target for a March completion date. The roof was tentatively scheduled for a December installation. The audio-visual, lighting and furnishing bid specifications are nearing completion and TBI would coordinate the bidding on both items. The solar system plans are nearing completion and the final design would be presented at the November 10th New Town Hall Committee meeting. In addition, a mock-up of the Hardi-panel material that would be used for the skin of the building would also be available for review at the meeting.

5.1.2 Identify and Fund Underground Project

Councilmember Warshawsky reported that the Undergrounding Subcommittee had been working with staff to determine the most cost effective protocol for a trenching agent. They had considered having the Town or PG&E assume the role. The Subcommittee had looked to Acting City Engineer Dave Ross for direction. Ross provided an overview of the undergrounding projects where he had participated as a consultant. He explained that the cost would be about the same for either option but that the process would be expedited if the Town assumed the role as the agent. Warshawsky added that the Subcommittee was evaluating the project's cost estimates but at this time he believed it could be under the proposed budget. He noted that the group was still evaluating the newly acquired information but he was hopeful that the Town would be able to act as the trenching agent. Warshawsky asked the City Attorney for some clarification on legal costs if the Town would assume the role. Mattas explained that they would be modest and would be factored into the trenching costs. Mattas added that design aspect of the project and construction management would not have to go out for a competitive bid.

Warshawsky announced that PG&E had accepted the additional route on Altamont Road. The next scheduled Undergrounding Subcommittee meeting was November 15, 2004.

5.1.3 Complete Master Pathway Map

Mayor Pro Tem Kerr reported that Pathways Chair Chris Vargas had advised him that he had nothing further to report since the last City Council meeting.

6. NEW BUSINESS

6.1 Emergency Animal Evacuation Plan

City Manager Maureen Cassingham introduced the item to Council. Before Council was a proposed Emergency Animal Evacuation Plan, that with the Council's approval, would become an Annex to the Town's Emergency Operations Plan. Cassingham explained that the Town's first priority in disasters was the preservation of lives and property within the Town. She explained that as an adjunct to this was the need to address the large animal population in Town. Conceivably, if not addressed, they could become a hindrance to the protection of life and property. The document before Council was a compilation of input from the Friends of Westwind Barn representatives, Palo Alto Animal Services, and the Santa Clara County Office of Emergency Services. Cassingham thanked the Friends of Westwind Barn representatives Harry Bahlman, Nancy Couperus, Sharon OMalley, Mellissa Stortz and Susan Lam for their assistance in developing a list of volunteers to implement the plan and shelter location within the Town for the animals. Cassingham concluded by noting that the proposed plan was intended as a guide for emergency staff to perform the critical field response support for the safe evacuation and sheltering of animals during a disaster. The plan described the procedures to organize volunteers needed to transport animals to an area that is safe and meets the animal's sheltering needs.

Mayor O'Malley questioned how the information would be disseminated to the Town's residents.

Cassingham explained that it would be featured in the December Town Newsletter and that the local press had recently written articles about the Emergency Animal Evacuation Plan.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Kerr and passed unanimously to adopt the Emergency Animal Evacuation Plan as an Annex to the Town's Emergency Operation Plan.

6.2 Consideration of Approval of an Agreement with Cotton, Shires and Associates, Inc. for Updating the Town's Geologic Map

Acting City Engineer Dave Ross introduced this item to Council. He explained that the proposal before Council from Cotton. Shires and Associates, the Town's geologic and geotechnical consultant since 1977, was for an update to the Town's Geologic Map. Ross noted that no changes had been made to the map for a period of twenty six (26) years. The map would assist the Town staff in evaluating soil conditions for the proposed Town's storm drainage systems. Ross added that the new digital geologic map would make technical information much more accessible to Town staff, residents and professional consultants. The map would be compatible with the GIS format.

OPENED PUBLIC COMMENT

John Harpootlian, Anacapa Drive, suggested that this might be an ideal time for the City Council to consider acquiring a small GIS system with satellite maps as additional overlays and higher resolution color maps that are available from the Santa Clara County. Acting City Engineer Ross commented that he is working with the Cupertino Sewer District to develop a GIS system and it requires an inordinate amount of staff time and is very costly. Staff time for maintenance of the system is also an issue. Ross noted that the proposal before Council was for a map that would be compatible with the GIS system.

CLOSED PUBLIC COMMENT

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Kerr and passed unanimously to approve Resolution No. 75-04 authorizing execution of an agreement with Cotton, Shires and Associates for updating the Town's Geologic Map.

7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

Mayor O'Malley reported that he had attended a Santa Clara Valley Water District's meeting that had included a presentation on the State's water system and energy by a representative from the Livermore Labs. O'Malley noted that 10 percent of the power usage in the State is to move water.

8. STAFF REPORTS

8.1 City Manager

8.2 City Attorney

8.3 City Clerk

8.3.1 Report on Council Correspondence

In response to the correspondence and petition dated 10/21/04 from residents on Central Drive requesting the removal of a chain on their street, staff was directed to investigate signage on the street.

9. COUNCIL-INITIATED ITEMS

None

10. PRESENTATIONS FROM THE FLOOR

Bob Stutz, Elena Road, addressed Council. He explained that he was giving advance notice to the Council that he would be having extensive pruning done to his heritage oak. PG&E had contacted him regarding a proposed trimming that they would perform to clear branches that obstruct the utility lines. Stutz was very concerned that they would damage the tree and will undertake the work to be done at his expense with his arborist. Council thanked Stutz for the information and his dedication to preserve the tree.

DuBose Montgomery, Altamont Road, addressed Council. He provided a written response to the letter that had been included in the Council meeting packet as agenda item 8.3.1 Council Correspondence from residents who reside on Central Drive. They were requesting the relocation of a chain that is placed across Central Drive. Montgomery read into the record his response and distributed the letter to Council. He was opposed to moving the current position of the bollards and chain. He had found no evidence of vandalism or trash in the area and had made a site visit to the location with Town staff to review the current situation. He offered to put up a sign, which would inform people that they are entering the wrong road section if they are trying to reach some other homes along Central Drive or Red Rock Road.

Council requested clarification on the chain. Staff noted that it was a Town chain. Councilmember Warshawsky added that he regularly runs in this area and is unaware of a trash or litter problem. He explained there had been a single incident of garbage being dumped in this area but it had been cleared by Town staff.

Eric Clow, Central Drive, stated he was not opposed to the suggestion presented by Mr. Montgomery for signage on his street.

11. PUBLIC HEARINGS

11.1 Annual Review of Schedule of Fees, Deposits, Charges for Services and Other Assessments

Administrative Services Director Sarah Joiner introduced this item to Council. She explained that the item before Council was a proposal to adjust the Town's schedule of fees and charges for services. Joiner noted that this was an annual adjustment and was based on the Consumer Price Index (CPI) increase of 1.4%. The increase to the fees were fairly modest and few technical changes had been made to the fee schedule. If approved, the fee schedule would become effective January 4, 2005. The impact of any changes to the fee schedule would be addressed in the 2004/2005 Mid-Year Budget Adjustment Report.

OPENED PUBLIC HEARING

CLOSED PUBLIC HEARING

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Warshawsky and passed unanimously to adopt Resolution No. 74-04 adopting a revised fee schedule to be effective January 4, 2005.

11.2 Amendment to the Town of Los Altos Hills General Plan and Plan Diagram Land Use Diagram

11.3 Amendment to the Town of Los Altos Hills Zoning Ordinance Title 10, Chapter 1, Article 2 “Definitions” and Title 10 Chapter 1, Article 7 “Residential-Agricultural District (R-A)”

Mayor O’Malley explained that for purpose of public testimony, Agenda Items 11.2 and 11.3 would be considered jointly.

Planning Director Carl Cahill introduced the items to Council.

Item 11.2 Cahill explained that at the direction of the City Council, the Planning Commission had reviewed the General Plan Land Use Diagram and prepared amendments so that the diagram would accurately reflect current land uses on certain properties in Town including the Pinewood School at 26800 Fremont Road and the property referred to as Morgan Manor at 12335 Stonebrook Drive. The Planning Commission had recommended: 1) The Pinewood School site should be assigned a dual designation on the General Plan Diagram: “Institution-Public School/Private School”; and, 2) The Morgan Manor at 12335 Stonebrook Drive should be designated “R(V-1) Residential-Very Low Density”. Cahill noted that the purpose of the dual designation for Pinewood School was to acknowledge that the site had been occupied by a private school with a Town approved conditional use permit for 30 years. A General Plan amendment should have been adopted in conjunction with Pinewood School’s use permit application and approval in 1976. Cahill clarified that the dual designation would permit a public school to return to the site. With regards to Morgan Manor, Cahill noted that at one time it had been a private school but had converted back to a private residence. In addition to the General Plan Diagram amendment, the Planning Commission also recommended a text amendment to the General Plan Land Use Element: 1) Paragraph 139 was proposed to be amended as follows: Private Schools Two private schools are shown on the Plan Diagram. The schools include Pinewood School at 26800 Fremont Road (grades 7-12) and St. Nicholas School at 12816 El Monte Avenue (grades K-8). Cahill explained that currently the Town General Plan identifies four private schools as shown on the Plan Diagram.

Item 11.3 Cahill explained that following recommendations from the Public Education Committee, City Council and Planning Commission to amend the Town’s Zoning Ordinance with regard to definitions for “public school” and “private school” definitions were developed with the assistance of the City Attorney’s office. The Planning Commission had considered the definitions and were recommending that the definition of a public school read: “Public School” means a kindergarten school, elementary school, secondary school (middle and/or high school), technical school, community college, state college, state university or charter school that is funded at public expense and is controlled and administered by a public agency.” Cahill noted that the Planning Commission wanted a simple definition and felt that this captured their intent. With regard to private school, the proposed definition stated: “Distinct from a Public School, “Private School” means a preschool, kindergarten school, elementary school, secondary school (middle and/or High school) or college level institution that is not funded at public expense and is privately controlled and administered.”

Cahill added that in addition to the proposed definition amendments, to correct inconsistencies with the Town’s General Plan, and to bring the Town’s Zoning

Ordinance in conformance with the General Plan, Title 10, Chapter 1, Article 7, Section 10-1.703 (f) and (g) were proposed to read: “Public Schools (where designated on the General Plan Land Use Diagram) and Private Schools (where designated on the General Plan Land Use Diagram).

Mayor Pro Tem Kerr requested clarification on the designation of the Bullis School site. Cahill explained that it was currently designated as an elementary school on the General Plan Diagram. In response to Kerr’s inquiry if it was designated as a public school on the Land Use Diagram, Cahill clarified that it was not but in the text of the General Plan Land Use Element it is identified as a public school. Kerr noted that he felt it would be appropriate to clarify it on the General Plan Land Use Diagram and have it be consistent with the text of the General Plan.

City Attorney Mattas explained that the General Plan is read as an entire document with the text and the map clarifying each other. Because the Bullis site is designated in the text as a public school site it is legally identified as such. If Council wished to amend the text as part of the General Plan update to ensure absolute consistency, they could amend the designation on the Land Use Diagram but the process would require a review by the Planning Commission and a public hearing before it would be forwarded to Council for their consideration.

Council concurred with Kerr’s request to clarify the designation on the Bullis school site and amend it to a public school on the Land Use Diagram and directed staff to begin the amendment process.

Following a brief discussion on the designation of Foothill College in the General Plan, Council requested that the General Plan text and diagram be amended to identify it as a public school.

Warshawsky requested clarification on the proposed definition text. He questioned the all inclusive and extensive definition that included technical schools, community colleges and universities. Cahill explained that the definition had been designed by the City Attorney’s office and was consistent with State and Federal law.

City Attorney Steve Mattas explained that zoning text was generally written in more precise language than the General Plan and if something is not specifically included than it is considered excluded. He further clarified the point by noting that if the definition were to be more broadly written, than it would be subject to interpretation.

OPENED PUBLIC HEARING

Roger Burnell, Public Education Committee Chair, addressed Council. He thanked the City Council, staff and the City Attorney for their work to clarify the definitions of public and private schools. Burnell noted that the PEC did not request any changes to the proposed definitions, especially the text with regards to higher education facilities, because it was their understanding that the City Attorney and Planning Director had concluded that the State school system would preempt the Town’s zoning laws if the Town was too restrictive.

Burnell expressed the PEC's concern that the dual designation for the Pinewood School site would limit the Town's options if the school were to become surplus by Palo Alto and then sold to another private school.

City Attorney Mattas explained that the ability to have an impact on how a school site is disposed of is guided by State law. With regards to the land use implication, Mattas explained that the conditional use permit "runs with the land" and would continue to operate and be effective for one year after vacation of the use on the property. At that time, whoever occupied the site would be required to return to the Town for a conditional use permit. If the site was leased to another private school within the year, they could operate under the existing CUP because it runs with the land. Mattas explained that if the Palo Alto School District went through the process of surplus the site, ultimately the Town would have to rezone it consistent with adjacent properties which would be R1-A.

Burnell asked if there was some mechanism like a variance that could be used to preserve the Pinewood site as a public designation and correct the designation retroactively. Mattas explained that use variances are not permissible under State law.

Jean Mordo, Planning Commissioner, requested clarification on the discussions the Planning Commission had held regarding the designation of the Bullis school site as a public school. Cahill explained that it had been discussed but because it had not been noticed, no action could be taken. He noted that both the Planning Commission and City Council had expressed desire to act on this Land Use Diagram amendment and he would move the process forward.

Jill Jensen, Public Education Committee, requested clarification on the preschool designation and its implication to the Bullis site.

City Attorney Mattas explained that the Bullis site was not being discussed. The proposed amendment before Council related to a site that has been designated as public school being used as a private school. The amendment would clarify this inconsistency.

CLOSED PUBLIC HEARING

11.2 City Attorney Steve Mattas summarized the discussion for Council. He noted that the General Plan amendment before Council recognized that the Town had a private school on a site that was designated as public. The dual designation would clarify the existing condition. The additional amendments reflect the number of private schools operating in the Town and their location and identified that Morgan Manor had converted to a private residence.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Kerr and passed by the following roll call vote to adopt Resolution No. 76-04 to update and amend the General Plan and Plan Diagram.

AYES:	Mayor O'Malley, Mayor Pro Tem Kerr, Councilmember Fenwick and Councilmember Warshawsky
NOES:	None
ABSENT:	Councilmember Cheng
ABSTAIN:	None

Council directed staff to move forward to further amend the General Plan to accurately reflect that the Bullis school site be designated as a public school on the Land Use Diagram.

City Attorney Mattas reiterated for the record that the amendment would be appropriate to provide absolute clarity but it was not legally necessary.

11.3 Council briefly discussed the options to amend the public and private definitions to exclude preschool and college level institutions. They concluded that the text for public school was appropriate and according to the law and amended the proposed private school definition by eliminating “preschool” and “or college level institution.”

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Warshawsky and passed by the following roll call vote to waive further reading and introduce the ordinance amending the Zoning Ordinance, Title 10, Chapter 1, Article 2 “Definitions”, Sections 10-1.241(a) & 10-1.241(b) and Article 7 “Residential-Agricultural District (R-A)”, Sections 10-1.703(f) & 10-1.10-1.703(g) with the definition of private school Section 10-1.241(a) School, Private amended to read: Distinct from a Public School, “Private School” means a kindergarten school, elementary school, or secondary school (middle and/or high school) that is not funded at public expense and is privately controlled and administered.

AYES: Mayor O’Malley, Mayor Pro Tem Kerr, Councilmember Fenwick and Councilmember Warshawsky
NOES: None
ABSENT: Councilmember Cheng
ABSTAIN: None

MOTION SECONDED AND CARRIED: Moved by Fenwick, seconded by Warshawsky and passed unanimously to adjourn to the Closed Session at 8:00 pm.

12. CLOSED SESSION

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION: Government Code Section 54956.9(a): Campbell and Ligeti v. Town of Los Altos Hills

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION: Government Code Section 54956.9(a): Town of Los Altos Hills v. Los Altos School District

CLOSED SESSION: PURSUANT TO GOVERNMENT CODE SECTION 54956.8-CONFERENCE REAL PROPERTY NEGOTIATOR.

Property: All Public Rights-of-Way, Public Service Easements and Public Utility Easements within the Town of Los Altos Hills
Agency Negotiators: Maureen Cassingham, Steve Mattas and Carl Pilnick.

Negotiating Parties : Town of Los Altos Hills and Comcast
Under Negotiation: Terms and Conditions related to Lease of Public Rights-of-Way,
Public Service Easements and Public Utility Easements

The City Council reconvened to the Regular City Council Meeting at 9:11 p.m.
No action was taken.

13. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:12 p.m.

Respectfully submitted,

Karen Jost
City Clerk

The minutes of the November 4, 2004 City Council Meeting were approved as read at the
November 18, 2004 City Council Meeting.